

Local Civil Rule 94.06W
MANDATORY MEDIATION OF CHILD PLACEMENT AND VISITATION ISSUES

(a) Effective Date. This rule applies to all cases filed on or after January 1, 1999. Cases pending December 31, 1998 may be referred to mandatory mediation upon order of the Court or agreement of the parties.

(b) Child Placement Proceeding Defined. For purposes of this rule, a child placement proceeding shall be defined as any proceeding before the court in which placement or visitation is at issue, except juvenile court dependency proceedings.

(c) Mediation Required. All placement or visitation issues shall be referred to mandatory mediation at the status conference. The mediation requirement may be waived by the court for good cause. A motion for waiver shall be noted before the court. An Order Waiving Mediation shall be filed with the court prior to the case being set for settlement conference.

(d) Superior Court Jurisdiction and Other Rules - Show Cause Hearings. The requirement of mediation shall not prevent the court or court commissioner from entering temporary orders.

(e) Referral to Mediation.

(1) Note For Mandatory Mediation. The party filing the note for Mandatory Mediation shall do so upon the form prescribed by the court.

(2) Choice of Mediator. Parties may elect to have their case mediated by a mediator of their choice through stipulation. Family court mediators shall be available for limited mediations services according to a fee schedule which may be modified from time to time. In the absence of a stipulation the court will assign a mediator at the status conference.

(3) Notice of Appointment as Mediator. Notice of Appointment shall be mailed to the mediator selected with copies being mailed or delivered to each counsel or party. Mediation shall commence within two weeks from the date of appointment unless otherwise agreed to by the parties and the mediator.

(f) Authority of Mediator. The mediator has the authority to determine the time, place, and duration of mediation. In appropriate cases, the mediator shall have the authority to terminate the mediation prior to completion.

(g) Attendance. Mediation session shall normally include the parties only, but may, by agreement of the parties, include other persons. Attendance at mediation sessions is mandatory.

(h) Declaration of Completion. Within seven (7) days of completion, a declaration of completion shall be filed by the mediator. The counsel and parties shall be advised by the mediator, on a separate document attached to the declaration of completion, the results and recommendations of the mediator. The mediator shall advise the court only whether an agreement has been reached.

(i) Payment. Family court mediators shall be paid by the parties, in proportion to their respective incomes, unless either or both parties are declared to be indigent or partially indigent. For consideration of indigency, Affidavits of Financial Status shall be executed by each party and a court determination of the financial status shall be set by court order prior to the commencement of mediation. The family court mediation fee in indigent cases shall be the current mandated fee set by the court. In private pay cases, fee schedules are set by individual mediators. Fees to be paid by the court shall be submitted for payment on the mediator's request for compensation. Private pay mediators are responsible for their own payment arrangements.

(j) Mediation Unsuccessful. If the parties fail to reach an agreement in mediation of the issues of placement and visitation, a family court investigation may be ordered. The family court investigator shall not be the same person who mediated the case. Upon completion of the investigation, written recommendation shall be filed with the court.

(k) Confidentiality. The work product of the mediator and all communications during mediation shall be privileged and not subject to compulsory disclosure. The mediator shall not appear or testify in any court proceedings.

(l) Child Advocate

(1) Appointment. Upon motion of the parties or on the Court's own motion, the court may appoint a child advocate who may be a Guardian Ad Litem or A Court Appointed Special Advocate (CASA). The order shall designate the

appointee, the duties, and make provision for the payment of fees.

(2) Notice. Pursuant to the civil rules, from the date of the appointment, the child advocate shall receive copies of all documents that are to be served on parties, copies of all discovery, and notice of all hearings, presentations and trials related to the child custody or visitation.

(3) Discharge. Unless otherwise set forth in these rules, the child advocate shall be discharged only by order of the Court upon motion or upon completion of the case when the final orders are filed with the approval of the appointed child advocate.

(4) In any case where a child advocate has been appointed, prior to entry of the final parenting plan or residential schedule, the child advocate must sign a Declaration indicating the child advocate has reviewed the final order and approves, does not approve, or approves in part. If the child advocate does not approve of all provisions in the final plan, the child advocate must state in the Declaration what provisions are objected to and why.

[Adopted Effective September 1, 1998, amended effective September 1, 2008]
